

EXHIBIT “E”

In The Matter Of:

*MALIBU TEXTILES, INC., v.
CAROL ANDERSON, INC & CABL, LLC,*

JOHN IRWIN
March 6, 2008

URBAN COURT REPORTING
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JOHN IRWIN

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MALIBU TEXTILES, INC,

Plaintiff,

Civil Action No.

-against- 07-CV-4780 (SAS)

CAROL ANDERSON, INC and CABI, LLC,

Defendants.

-----X
March 6, 2008

1:35 p.m.

Deposition of JOHN IRWIN, taken by Plaintiff,
pursuant to Notice, at the offices of Lazarus &
Lazarus, 240 Madison Avenue, New York, New York,
before Jowell Falsetta, a certified Shorthand
Reporter and Notary Public within and for the
State of New York.

JOHN IRWIN

3 (Pages 6 to 9)

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<p>1 JOHN IRWIN</p> <p>2 At any time you want to speak to your</p> <p>3 attorney, you may except if there is a</p> <p>4 pending question.</p> <p>5 Meaning between my question and your</p> <p>6 answer, I prefer strongly that you do not</p> <p>7 consult with your attorney until after you</p> <p>8 have given an answer in the ordinary course</p> <p>9 I'll have no objection for you taking a break</p> <p>10 to speak to Mr. Kaplan or any reason.</p> <p>11 If you need a break for anything just</p> <p>12 let me know.</p> <p>13 A. Okay.</p> <p>14 Q. Mr. Irwin, where are you</p> <p>15 currently employed?</p> <p>16 A. Malibu Textiles.</p> <p>17 Q. What position do you hold at</p> <p>18 Malibu?</p> <p>19 A. President.</p> <p>20 Q. For how long have you been</p> <p>21 president of Malibu Textiles?</p> <p>22 A. Six weeks approximately.</p> <p>23 Q. And prior to being president of</p> <p>24 Malibu Textiles, were you employed by Malibu</p> <p>25 Textiles?</p>	<p>1 JOHN IRWIN</p> <p>2 1994?</p> <p>3 A. Yes, it could be 13 years but I</p> <p>4 think it is 14 now.</p> <p>5 Q. And do you have any college</p> <p>6 degrees?</p> <p>7 A. Yes.</p> <p>8 Q. And what degrees do you have?</p> <p>9 A. Bachelor of science degree in</p> <p>10 business administration organizational</p> <p>11 development.</p> <p>12 Q. When did you obtain that degree?</p> <p>13 A. I am guessing now I am going to</p> <p>14 say 1986, '87.</p> <p>15 Q. Before you became an independent</p> <p>16 agent to Malibu Textiles?</p> <p>17 A. Yes.</p> <p>18 Q. Have you had any full-time</p> <p>19 employment after obtaining your degree other</p> <p>20 than at Malibu Textiles?</p> <p>21 A. Yes.</p> <p>22 Q. Where else were you employed?</p> <p>23 A. My father's company.</p> <p>24 Q. Again if you would wait until I</p> <p>25 finish the question.</p>
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<p>1 JOHN IRWIN</p> <p>2 A. Yes.</p> <p>3 Q. And what position did you hold</p> <p>4 prior to being president?</p> <p>5 A. Vice-president.</p> <p>6 Q. When did you first join Malibu</p> <p>7 Textiles?</p> <p>8 A. In New York?</p> <p>9 Q. Ever.</p> <p>10 A. Ever, in California I began</p> <p>11 employment as an agent for Malibu and let me</p> <p>12 go back here we are in what year, 2008. I</p> <p>13 have been here 13 years so 1987, 1987 in</p> <p>14 California. However that was in the capacity</p> <p>15 as an agent.</p> <p>16 Q. Meaning you were an independent</p> <p>17 contractor or independent agent to Malibu</p> <p>18 Textiles?</p> <p>19 A. Correct.</p> <p>20 Q. When did you join Malibu</p> <p>21 Textiles as a full-time employee?</p> <p>22 A. I would have to check my</p> <p>23 documents for the exact date and year but I</p> <p>24 believe I have been here now 14 years.</p> <p>25 Q. So that would be approximately</p>	<p>1 JOHN IRWIN</p> <p>2 Where else have you had full-time</p> <p>3 employment?</p> <p>4 A. In Los Angeles.</p> <p>5 Q. Where was that?</p> <p>6 A. A company by the name of Mark</p> <p>7 Textiles.</p> <p>8 Q. In what period were you a</p> <p>9 full-time employee of Mark Textiles?</p> <p>10 A. To the best of my recollection,</p> <p>11 I was working there while I was in college,</p> <p>12 finishing college in Northridge.</p> <p>13 So it was probably around the year</p> <p>14 1985, 1984. So I worked for my father in</p> <p>15 1984 as full time, completed college in the</p> <p>16 evening and then went to work for Malibu</p> <p>17 after that.</p> <p>18 Q. Just to be clear, after you got</p> <p>19 your college degree, where had you been</p> <p>20 employed on a full-time basis other than at</p> <p>21 Malibu Textiles?</p> <p>22 A. Mark Textiles.</p> <p>23 Q. That was after your degree?</p> <p>24 A. Yes.</p> <p>25 Q. What did you do at Mark?</p>

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9 (Pages 30 to 33)

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<p>1 JOHN IRWIN</p> <p>2 received, look it over, maybe a one-minute</p> <p>3 conversation. That was the extent of it that</p> <p>4 I would recall.</p> <p>5 Q. And this document as the prior</p> <p>6 document is dated September 20 of 2005.</p> <p>7 Are you aware of any circumstances or</p> <p>8 event transpiring in that time period such</p> <p>9 that Mr. Dickinson or Mr. Fishback created</p> <p>10 these documents titled acknowledgment of</p> <p>11 rights?</p> <p>12 A. I'm not aware.</p> <p>13 Q. And the next document is a third</p> <p>14 document called acknowledgment of rights that</p> <p>15 appears to also have a signature but at this</p> <p>16 time by Yolanda Kramm.</p> <p>17 Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. Have you ever seen this document</p> <p>20 before?</p> <p>21 A. Yes.</p> <p>22 Q. And was that at the same time</p> <p>23 that you saw the Fishback and Dickinson</p> <p>24 document?</p> <p>25 A. Yes.</p>	<p>1 JOHN IRWIN</p> <p>2 her initials. I thought you asked if I saw</p> <p>3 the sketch with her initials. If it had her</p> <p>4 initials, I didn't recognize it as I said</p> <p>5 before. I don't know if it was her initials</p> <p>6 but I certainly did see the sketch.</p> <p>7 Q. You don't know whether what you</p> <p>8 saw did or did not have her initials on the</p> <p>9 sketch?</p> <p>10 A. No, I don't recall seeing her</p> <p>11 initials on the sketch.</p> <p>12 Q. Referring back to the complaint</p> <p>13 which I see you still have opened in front of</p> <p>14 you.</p> <p>15 Do you see the exhibit which is the</p> <p>16 VA registration for patent 1967.</p> <p>17 On the second page of that</p> <p>18 registration is signed off on by a person</p> <p>19 Helena Nielson?</p> <p>20 A. Yes, I see that.</p> <p>21 Q. Do you know who Ms. Nielson is?</p> <p>22 A. Yes.</p> <p>23 Q. Who is she?</p> <p>24 A. Helena worked for the Textile</p> <p>25 Distributor's Association in their office.</p>
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<p>1 JOHN IRWIN</p> <p>2 Q. And do you see that this</p> <p>3 document states at the second sentence, I</p> <p>4 created the original on the attached sketch</p> <p>5 which is initialed by me.</p> <p>6 Do you see that?</p> <p>7 A. Yes, I do.</p> <p>8 Q. Have you ever seen the original</p> <p>9 or a copy of the original which has been</p> <p>10 initialed by Ms. Kramm?</p> <p>11 A. A copy of the original--</p> <p>12 Q. That has been--</p> <p>13 A. The sketch.</p> <p>14 Q. The sketch that is referred to</p> <p>15 here.</p> <p>16 Have you ever seen a copy or the</p> <p>17 original of that sketch which has been</p> <p>18 initialed by Ms. Kramm?</p> <p>19 A. Yes.</p> <p>20 Q. When did you see that?</p> <p>21 A. The exact date I would not</p> <p>22 recall.</p> <p>23 Q. But you saw her initials?</p> <p>24 A. No, I didn't see her initials I</p> <p>25 didn't know that you were asking did I see</p>	<p>1 JOHN IRWIN</p> <p>2 To what function I don't recall.</p> <p>3 Q. Did you ever speak to her at</p> <p>4 all?</p> <p>5 A. At TDA meetings yes once in a</p> <p>6 while.</p> <p>7 Q. You attended TDA meetings?</p> <p>8 A. Yes.</p> <p>9 Q. Did you ever discuss this</p> <p>10 registration for pattern 1967 with Ms.</p> <p>11 Nielson?</p> <p>12 A. I don't recall a discussion, no.</p> <p>13 Q. Have you at any time since the</p> <p>14 commencement of this lawsuit attempted to</p> <p>15 speak with Ms. Nielson or any representative</p> <p>16 of TDA regarding this lawsuit?</p> <p>17 A. No.</p> <p>18 Q. Have you attempted to speak to</p> <p>19 Ms. Nielson or any other representative of</p> <p>20 TDA regarding this registration?</p> <p>21 A. No.</p> <p>22 Q. Do you know what a work for hire</p> <p>23 is?</p> <p>24 A. I don't know the legal</p> <p>25 definition of work for hire, no. As it</p>